

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.D. 20231
ATTENTION LICENSING AND REVIEW

Declaration of Jürgen Klinghardt

I, Jürgen Klinghardt, do hereby declare as follows:

1. I am a patent attorney with the German firm of Eisenführ, Speiser & Partner, Martinistrasse 24, 28195 Bremen, GERMANY.

2. Our firm received a letter from Ms. Linda L. Palomar of Trexler, Bushnell, Giangiorgi, Blackstone & Marr, Ltd., dated December 10, 2001, which instructed our firm to file a German patent application which claimed priority from United States Provisional Patent Application Serial No. 60/259,947 and a formal patent application based thereon, which had yet to be assigned a Serial Number. The letter stated that the application should be filed in Germany before January 5, 2002. The letter further stated to delay filing of the patent application until we were notified that the foreign filing license had been granted. A copy of this letter is attached as Exhibit 1.

3. Our firm received a letter from Ms. Palomar, dated January 2, 2002, which instructed our firm to file the German patent application on January 4, 2002 as Ms. Palomar stated that the Foreign Filing License should be granted by that date. A copy of this letter is attached as Exhibit 2.

4. On January 3, 2002, our firm sent a letter to Ms. Palomar indicating safe receipt of our her letters dated December 10, 2001 and January 2, 2002 and confirming that a German patent application would be filed before January 5, 2002. A copy of this letter is attached as Exhibit 3.

5. On January 23, 2002, our firm sent a letter to Ms. Palomar indicating that the German application was filed with the German Patent Office on December 28, 2001 and was assigned Serial No. 101 64 376.4. A copy of this letter is attached as Exhibit 4.

6. Our firm received a letter from Mr. James A. O'Malley of Trexler, Bushnell, Giangiorgi, Blackstone & Marr, Ltd., dated February 7, 2002, which expressed confusion over the filing date of the German patent application as it was requested the German application be filed on January 4, 2002, but the application was in actuality filed on December 28, 2001. A copy of this letter is attached as Exhibit 5.

7. Our firm received a reminder letter from Mr. O'Malley, dated February 13, 2002, regarding the confusion of the filing date of the German patent application. A copy of this letter is attached as Exhibit 6.

8. On February 14, 2002, I called Mr. O'Malley to discuss the confusion of the filing date of the German patent application. During our phone call, I explained that one of the younger members of our firm, who I was the supervisor for, had prematurely filed the German patent application on December 28, 2001 (six (6) days prior to the granting of the foreign filing license), rather than waiting to file the German patent application until receiving the explicit instructions to do so, as instructed in Ms. Palomar's letter dated December 10, 2001, which is provided as Exhibit 1.

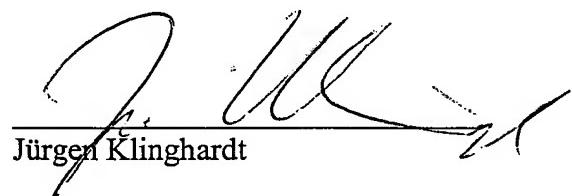
9. The younger member of our firm who prematurely filed the German patent application on December 28, 2001 is no longer with our firm and, thus, I, as the younger member's supervisor, and having direct knowledge of the surrounding events, am attesting hereto.

10. The German patent application was filed abroad through error and without deceptive intent without the required license under §5.11 first having been obtained.

11. I further declare that all statements made herein of my own personal knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Date 16 May 2002

337489



Jürgen Klinghardt

TREXLER USSELL, GIANGIORGI, BLACKSTONE MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

105 WEST ADAMS STREET, SUITE 3600

CHICAGO, ILLINOIS 60603-6299

FOUNDED 1890

(312) 704-1890

December 10, 2001

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS: ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023
www.trexlaw.com

RICHARD R. TREXLER (1906-1995)
RICHARD A. GIANGIORGI
RAIFORD A. BLACKSTONE, JR.
DAVID J. MARR
LINDA L. PALOMAR
JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. McCARTHY
PAIGE A. KITZINGER

OF COUNSEL
RICHARD BUSHNELL

VIA FACSIMILE, CONFIRMATION AND
ENCLOSURES VIA DHL

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
Germany

Re: Proposed German Patent Application
CLAIMING PRIORITY OF
United States Provisional Patent Application
Serial Nos. 60/259,947; and formal
Patent Application Serial No. (Not yet available)
For: "HYDRAULIC PUNCH DRIVER"
Our Ref: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

We enclose herewith material to file a Patent Application in Germany before January 5, 2002. Full particulars concerning the Applicant, etc., are set forth on the attached sheet of particulars. We will advise you of the *serial number of the formal patent application filed on November 13, 2001 as soon as it is available to us*.

Enclosed please find the following:

- 1) Specification 16 pages
- 2) Claims six pages 22 claims
- 3) Abstract one page
- 4) A copy of the informal drawings-
six sheets, 6 FIGS.

We will forward under separate cover the Certified Copies of the United States Provisional and formal applications and the formal drawings.

Eisenfuhr, Speiser & Partner
December 10, 2001
Page 2

NOTE: Please delay filing this patent application until we notify you that the Foreign Filing License has been granted.

Kindly acknowledge safe receipt of these instructions by return facsimile.

Please advise if you need anything further from us to comply with the filing requirements.

Thank you for your cooperation.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By _____

Linda L. Palomar

LLP/mk/Enc.
Enclosures via DHL

TREXLER, BUSHNELL, GIANGIORG

LAWKSTONE & MARR, LTD.

Foreign Filings
Greenlee Case 283-Germany

FOR: "HYDRAULIC PUNCH DRIVER"

INVENTOR/S William F. Nordlin
1672 Candlewick Dr.
S.W. Poplar Grove, Illinois 61065 USA

Thomas Gene Boese
3993 Courtland Terrace
Rockford, Illinois 61109 USA

APPLICANT: GREENLEE TEXTRON INC.
4455 Boeing Drive
Rockford, Illinois 61109 USA

(A corporation of the state of Delaware)

PRIORITIES: UNITED STATES PROVISIONAL PATENT APPLICATION
SERIAL NO. 60/259,947
Filed: January 5, 2001

UNITED STATES FORMAL PATENT APPLICATION
SERIAL NO. Not available yet
Filed: November 13, 2001

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

105 WEST ADAMS STREET, SUITE 3600

CHICAGO, ILLINOIS 60603-6299

FOUNDED 1890

RICHARD R. TREXLER (1906-1995)
RICHARD A. GIANGIORGI
RAIFORD A. BLACKSTONE, JR.
DAVID J. MARR
LINDA L. PALOMAR
JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. McCARTHY
PAIGE A. KITZINGER

(312) 704-1890

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS; ALL PHASES
INCLUDING LICENSING AND LITIGATION

January 2, 2002

FAX: (312) 704-8023
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VIA FACSIMILE WITH
CONFIRMATION VIA AIR MAIL

OF COUNSEL
RICHARD BUSHNELL

Eisenfuhr, Speiser & Partner
Martinstrasse 24
28195 Bremen
GERMANY

RECEIVED

APR 23 2003

OFFICE OF PETITIONS

Re: Proposed German Patent Application
CLAIMING PRIORITY OF
United States Provisional Patent Application
Serial No. 60/258,947; and formal
Patent Application Serial No. (unknown)
For: "**HYDRAULIC PUNCH DRIVER**"
Our Ref.: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

Further to our letter dated December 10, 2001, please proceed with filing the above-identified patent application on January 4, 2002. The foreign filing license for this application should be granted by January 4, 2002 (but even if it is not granted, you are to file on January 4, 2002).

Please note that the formal United States patent application has not yet been assigned a Serial Number. We will forward this information to you once we receive it from the United States Patent and Trademark Office. If the Serial Number is necessary for the filing of the German patent application, please base the priority only on the United States provisional patent application Serial No. 60/258,947.

Kindly acknowledge safe receipt of these instructions by return facsimile.

Please advise if you need anything further from us to comply with the filing requirements.

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD.

Eisenfuhr, Speiser & Partner
January 2, 2002
Page 2

Thank you for your cooperation.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By:


Linda L. Palomar

LLP/JAO:74967-1

Eisenführ, Speiser & Partner**BY FAX ONLY**

Messrs.

Trexler, Bushnell, Giangiorgi
& Blackstone, Ltd.Attn.: Ms. Linda L. Palomar
105 West Adams Street, 36th FloorChicago, Ill. 60603-6299
U. S. A.

Bremen, 3 January 2002

Your Ref.: Greenlee Case 283-Germany (913/39742)

Our Ref.: G 588 SAS/hs

Direct Dial: +49-421-36 35 341

Bremen
 Patentanwälte
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 Dipl.-Ing. Günther Eisenführ
 Dipl.-Ing. Dieter K. Speiser
 Dr.-Ing. Werner W. Asbus
 Dipl.-Ing. Jürgen Brügge
 Dipl.-Ing. Jürgen Klinghardt
 Dipl.-Ing. Klaus G. Göken
 Jochen Eilors
 Dipl.-Ing. Mark Andres
 Dipl.-Chem. Dr. Uwe Stilkenböhmer
 Dipl.-Ing. Stephan Keck
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 European Patent Attorney
 Dipl.-Phys. Frank Meier

Rechtsanwälte
 Rainer Böhm
 Nicol A. Schrömgens, LL. M.

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 Dipl.-Ing. Jutta Kaden
 Patentanwalt
 Dipl.-Phys. Dr. Andreas Thiebold

Alicante
 European Trademark Attorney
 Dipl.-Ing. Jürgen Klinghardt

Greenlee Textron Inc.
 New German patent application
Hydraulic punch driver

Dear Ms. Palomar,

We confirm safe receipt of your letters dated December 10, 2001 and January 2, 2002
 and confirm that the German patent application will be filed before January 5, 2002.

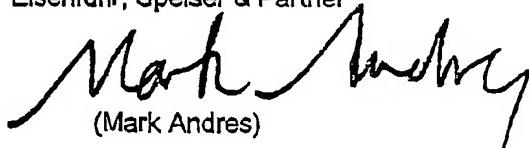
As regards the priority date of the United States provisional patent application please
 advise, whether the serial number 60/259,947 or 60/258,947 is correct. We have noted
 that the data provided in your two above referenced letters differs.

The serial number of the formal US application can be submitted to the German Pa-
 tent and Trademark Office later. Please provide this serial number at your earliest con-
 venience.

We will keep you informed on the further development of this filing.

Very truly yours,

Eisenführ, Speiser & Partner



(Mark Andres)

Eisenführ, Speiser & Partner

Messrs.
Trexler, Bushnell, Giangiorgi
& Blackstone, Ltd.
Attn.: Ms. Linda L. Palomar
105 West Adams Street, 36th Floor

Chicago, Ill. 60603-6299
U. S. A.

Bremen, 23 January 2002

Your Ref.: Greenlee Case 283-Germany (913/39742)
Our Ref.: G 588 SAS/lnl
Direct Dial: +49-421-36 35 341

Greenlee Textron Inc.
German patent application 101 64 376.4
Hydraulic punch driver

Bremen Patentanwälte European Patent Attorneys Dipl.-Ing. Günther Eisenführ Dipl.-Ing. Dieter K. Speiser Dr.-Ing. Werner W. Rabus Dipl.-Ing. Jürgen Brügge Dipl.-Ing. Jürgen Klinghardt Dipl.-Ing. Klaus G. Göken Jochen Ehlers Dipl.-Ing. Mark Andres Dipl.-Chem. Dr. Uwe Stilkenböhmer Dipl.-Ing. Stephan Keck Dipl.-Ing. Johannes M. B. Wasiljeff Patentanwältin Dr.-Ing. Stefan Sasse	Hamburg Patentanwalt European Patent Attorney Dipl.-Phys. Frank Meier
Rechtsanwälte Rainer Böhm Nicol A. Schrömgens, LL. M.	München Patentanwälte European Patent Attorneys Dipl.-Phys. Heinz Nöth Dipl.-Wirt.-Ing. Rainer Fritzsche Lbm.-Chem. Gabriele Leißler-Gers Dipl.-Ing. Olaf Ungerer Patentanwalt Dipl.-Chem. Dr. Peter Schuler
Berlin Patentanwälte European Patent Attorneys Dipl.-Ing. Henning Christiansen Dipl.-Ing. Joachim von Oppen Dipl.-Ing. Jutta Kaden Patentanwalt Dipl.-Phys. Dr. Andreas Theobald	Alicante European Trademark Attorney Dipl.-Ing. Jürgen Klinghardt

CASE: Greenlee 283-DE
FILE #: 913/39742
S/N 2, filing date entered
Reg. for Ex DUE 12/28/08

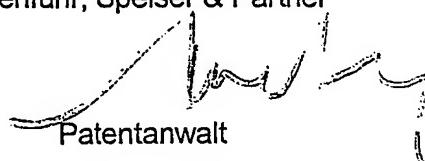
Dear Ms. Palomar,

Thanking you for this order we would like to advise that the above mentioned application has now been filed in the German Patent and Trademark Office in foreign language. According to German Patent Law we will prepare and file a German translation until 28 March 2002 and report thereon upon filing.

Please, note all data regarding this case from the enclosed filing receipt and LIST OF PARTICULARS.

In the absence of respective instructions we have not yet requested examination of this application. The final term for filing the request for examination expires on 28 December ✓ 2008.

Very truly yours,
Eisenführ, Speiser & Partner



Patentanwalt

Encls.

- 1 Filing Receipt (Copy)
- 1 List of Particulars
- 1 Information Sheet
- 1 debit-note, in dupl.

Empfangsbescheinigung

DEUTSCHES PATENT- UND MARKENAMT

(1) In der An- schrift Straße, Haus-Nr. und ggf. Postfach angeben		Sendungen des Deutschen Patent- und Markenamts sind zu richten an: Eisenführ, Speiser & Partner Martinistraße 24 28195 Bremen		Antrag auf Erteilung eines Patents		1	
Vordruck nicht für PCT-Ver- fahren ver- wenden s. Rückseite				<input type="checkbox"/> TELEFAX vorab am			
				Aktenzeichen (wird vom Deutschen Patent- und Markenamt vergeben)		101 64 376.4	
(2)		Zeichen des Anmelders/Vertreters (max. 20 Stellen) G 588		Telefon des Anmelders/Vertreters 36 35 -0		Datum 27.12.2001/pls	
(3)		Der Empfänger in Feld (1) ist der		ggf. Nr. der Allgemeinen Vollmacht			
		<input type="checkbox"/> Anmelder	<input checked="" type="checkbox"/> Zustellungsbevollmächtigte	<input checked="" type="checkbox"/> Vertreter			
(4) nur auszufüllen, wenn ab- weichend von Feld (1)		Anmelder GREENLEE TEXTRON INC. 4455 Boeing Drive Rockford, Illinois 61109 Vereinigte Staaten von Amerika		Vertreter Eisenführ, Speiser & Partner Martinistraße 24 28195 Bremen			
Handelsregi- sternummer nur bei Firmen anzugeben		<input type="checkbox"/> Der Anmelder ist eingetragen im Handelsregister Nr. _____ beim Amtsgericht					
(5) soweit bekannt		Anmeldercode-Nr.	Vertretercode-Nr.	Zustelladresscode-Nr.	ABT	ERF	
(6) s. auch Rückseite IPC-Vorschlag Ist unbedingt anzugeben, sofern bekannt		Bezeichnung der Erfindung Hydraulischer Schlagantrieb		IPC-Vorschlag d. Anmelders			
(7) s. Erläute- rung u. Kosten- hinweise auf der Rückseite		Sonstige Anträge <input type="checkbox"/> Die Anmeldung ist Zusatz zur Patentanmeldung (zum Patent) <input type="checkbox"/> Prüfungsantrag - Prüfung der Anmeldung mit Ermittlung der öffentlichen Druckschriften (§ 44 Patentgesetz) <input type="checkbox"/> Rechercheantrag - Ermittlung der öffentlichen Druckschriften ohne Prüfung (§ 43 Patentgesetz) <input type="checkbox"/> Lieferung von Ablichtungen der ermittelten Druckschriften im <input type="checkbox"/> Prüfungsverfahren <input type="checkbox"/> Rechercheverfahren		Aktenzeichen der Hauptanmeldung (des Hauptpatents)			
		<input type="checkbox"/> Aussetzung des Erteilungsbeschlusses auf _____ Monate (§ 49 Abs. 2 Patentgesetz) (Max. 15 Mon. ab Anmelde- oder Prioritätstag)					
(8)		Erklärungen <input type="checkbox"/> Teilung/Ausscheidung aus der Patentanmeldung <input type="checkbox"/> an Lizenzvergabe interessiert (unverbindlich) <input type="checkbox"/> Nachanmeldung im Ausland beabsichtigt (unverbindlich)		Aktenzeichen der Stammanmeldung			
(9) s. auch Rückseite		<input type="checkbox"/> Inländische Priorität (Datum, Aktenzeichen der Voranmeldung) <input checked="" type="checkbox"/> Ausländische Priorität (Datum, Land, Aktenz. der Voranmeldung: vollständiges Abschriften der ausländischen Voranmeldung(en) beifügen) 1. 05. Januar 2001 - U.S.A. - 60/259,947 2. 13. November 2001 - U.S.A. - folgt					
(10) Erläuterung und Kosten- hinweise s. Rückseite		Gebührenzahlung in Höhe von 100,00 DM <input type="checkbox"/> Überweisung (nach Erhalt der Empfangsbescheinigung)		<input type="checkbox"/> Scheck ist beigefügt <input type="checkbox"/> Gebührenmarken sind beigefügt (bitte nicht auf die Rückseite kleben, ggf. auf gesondertes Blatt)			
(11) Anlagen		5. 8 22	Seite(n) Patentansprüche Anzahl Patentansprüche				
Anlagen 3 - 7. jeweils 3-fach s. auch Rückseite		6. 6 7. ____ 8. ____	Blatt Zeichnungen Abschrift(en) d. Voranmeld. Zillerte Nichtschutzliteratur	Stefan Sasse			
		9. ____		(12) Unterschrift(en)			

Nur von der Annahmestelle auszufüllen:

Diese Patentanmeldung ist an dem durch Perforierung angegebenen Tag beim Deutschen Patent- und Markenamt eingegangen. Sie hat das o.a. Aktenzeichen erhalten.
 Dieses Aktenzeichen ist bei allen Eingaben anzugeben. Bei Zahlungen ist das vollständige Aktenzeichen und der Verwendungszweck in Form des Gebühren-codes (s. Rückseite zu Feld (10)) zu vermerken.

Gebührenmarken in Wert von _____ DM sind entrichtet.
 Bei Abdrucken v. 1244 kann man an Zeile 10 nacarbeiten

Bitte beachten Sie die Hinweise

Martinistraße 24
28195 Bremen
Fax +49-(0)421-337 8788 (G3)
Fax +49-(0)421-328 8631 (G4)
Tel. +49-(0)421-36 35 0
mail@eisenfuhr.com

LIST OF PARTICULARS

Date: 23 January 2002

YOUR FILE: Greenlee Case 283-Germany (913/39742)

OUR FILE: G 588

APPLICATION FOR: patent application

COUNTRY: Germany

SERIAL NUMBER: 101 64 376.4 ✓

APPLICANT: Greenlee Textron Inc.
4455 Boeing Drive
Rockford, Illinois 61109

TITLE: Hydraulischer Schlagantrieb

PRIORITIES: 05.01.2001 - 60/259,947 - US
13.11.2001 - - US

FILING DATE: 28 December 2001 ✓

LAID OPEN AFTER APPROX.: 5 July 2002

EXAMINATION PETITION: 28 December 2008 ✓

ANNUITIES FROM: 31 December 2003 ✓ — CPA

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

THE CLARK ADAMS BUILDING

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AND RELATED MATTERS: ALL PHASES
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RICHARD A. GIANGIORGI
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DAVID J. MARR
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JAMES R. FOLEY
JAMES A. O'MALLEY
TIMOTHY M. McCARTHY
PAIGE A. KITZINGER

February 7, 2002

FAX: (312) 704-8023
www.trexlaw.com

OF COUNSEL
RICHARD BUSHNELL

VIA FACSIMILE

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
GERMANY

Re: German Patent Application No. 101 64 376.4
In the name of Greenlee Textron Inc.
Your Ref.: G 588 SAS/hs
Our Ref.: Greenlee Case 283-Germany (913/39742)

Dear Sirs:

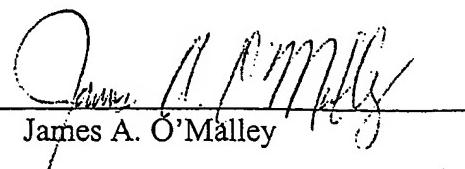
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Thus, based on the correspondence described above, we do not understand why your letter dated 23 January 2002 states that the filing date for the German patent application is 28 December 2001, as the application should have been filed on 4 January 2002. Please explain.

Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By: 

James A. O'Malley

TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR LTD.

COUNSELORS AT LAW

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PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS: ALL PHASES
INCLUDING LICENSING AND LITIGATION

FAX: (312) 704-8023
www.trexlaw.com

February 7, 2002

OF COUNSEL
RICHARD BUSHNELL

VIA FACSIMILE + Mail

February 13, 2002

REMINDER

Eisenfuhr, Speiser & Partner
Martinistrasse 24
28195 Bremen
GERMANY

Re: German Patent Application No. 101 64 376.4
In the name of Greenlee Textron Inc.
Your Ref.: G 588 SAS/hs
Our Ref.: Greenlee Case 283-Germany (913/39742)

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Sincerely,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

By:

James A. O'Malley

Case 283
913/38954

May 28, 2002
RAG/LLP/JAO/tes

Applicant: NORDLIN et al.
Serial No.: 10/074,535
Filed: November 13, 2001
For: HYDRAULIC PUNCH DRIVER

Enclosed: SUPPLEMENT TO PETITION FOR RETROACTIVE LICENSE (37 CFR §5.25) FILED ON FEBRUARY 19, 2002 (in duplicate); exhibits 1 through 3; Certificate of First Class Mailing and this postcard.

Receipt Acknowledged: _____

F/U: 06/28/02

HON. COMMISSIONER FOR TRADEMARKS:

Kindly stamp card with date of receipt of attached material and return to attorneys of record.